91-03702/

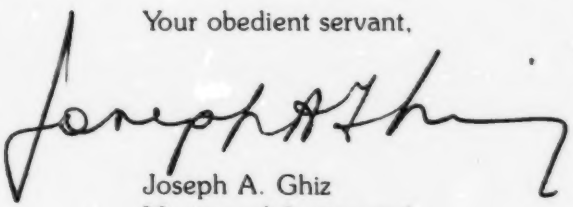
TO: **THE HONOURABLE MARION L. REID**
Lieutenant Governor
Province of Prince Edward Island

May It Please Your Honour:

I have the honour to submit the eighteenth Annual Report of the Department of Justice for this province.

I have the honour to be, Madam,

Your obedient servant,



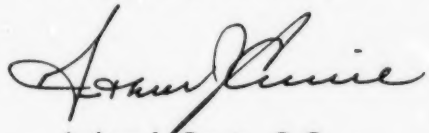
Joseph A. Ghiz
Minister of Justice and
Attorney General

TO: **THE HONOURABLE JOSEPH A. GHIZ, Q.C.**
Minister of Justice and Attorney General
Province of Prince Edward Island

Sir:

I am pleased to submit herewith the Annual Report of the Department of Justice for the year ending 31 December 1990.

Respectfully submitted,



Arthur J. Currie, Q.C.
Deputy Minister of Justice

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INTRODUCTION

The reports of the divisions of the Department contained herein have been prepared by the directors and amalgamated into the report of the Department. The report of the Commanding Officer of "L" Division R.C.M.P. will be tabled in the Legislative Assembly as a separate report.

DEPARTMENTAL DIVISIONS

1. Administration
2. Community and Correctional Services
3. Consumer Services
4. Corporations
5. Crown Attorneys
6. Insurance
7. Judicial
8. Legal Aid
9. Legal Services
10. Legislative Counsel
11. Residential Rental Property Office

ADMINISTRATION

The Administration Division is responsible for the personnel of the Department and ensuring that the Department runs in a smooth and efficient manner. The Division is under the Director of Corporations who, in conjunction with the staff of the Division, prepares the annual budget and account for all revenues and expenditures.

Personnel

Director: Edison Shea, C.A.
Administrative Officer: Kaye MacFadyen
Clerk: Donna Thompson
Clerk: Linda Allen

COMMUNITY & CORRECTIONAL SERVICES

Introduction

The Community and Correctional Services Division is comprised of three branches:

1. Community Programs
2. Custody Programs
3. Special Programs

Given ongoing heavy demands on the general administration section of the division, and in an effort to streamline communication, delegate responsibilities and more effectively manage the division, a number of temporary changes were made during 1990.

John Bruce, Manager, Custody Programs Branch, transferred to the position of Director, Staff Development Division with the Civil Service Commission on a secondment basis. In Mr. Bruce's absence, John Picketts, Provincial Administrator, Youth Facilities, will report to the Director; Craig McDowall was assigned the duties of Provincial Administrator, Adult Facilities; and Carl Doucette, while continuing with the review of Probation and Family Court Services, was assigned the duties of Provincial Administrator, Community Programs. The latter two individuals report to the Director.

A noteworthy development during 1990 was the approval of a Mission Statement and Operating Principles for the division to guide the operations of our various programs.

As well, a crest and lapel pin were developed by the division. The crest will appear on selected divisional property. The lapel pin will be issued to division staff.

Community Programs

This branch includes the provision of Youth and Adult Probation, Family Court and related services. At year's end, field staff of the branch consistec of two Family Counsellors and eleven Probation Officers operating from offices in Charlottetown, Summerside, O'Leary, Montague and part-time offices in Souris and Alberton.

During the past year, Carl E. Doucette, Senior Probation Officer, conducted a review and assessment of Probation Services and Family (Court) Counsellors. Mr. Doucette's report will be completed early in 1991. This report will provide the service with strategies for the service to meet the challenges and the demands of the nineteen nineties.

Court Reports

During 1990, Probation Officers conducted assessments and investigations for and submitted 160 Court reports to both Provincial and Supreme Court.

There were 151 Court reports prepared on young offenders for Youth Court.

Probation Supervision

On January 1, 1990, there were 574 adults (age 18 and over) under the supervision of Probation Officers in the province with 673 new cases added during the year.

On January 1, 1990, there were 326 young offenders under supervision with 490 new young offender cases brought under supervision during the year.

On December 31, 1990, 659 adult and 379 young offender cases were under supervision of Probation Officers.

Tables A and B contain statistical information on adult and youth caseloads for the years 1986 to 1990.

TABLE "A"
PROBATION SERVICES CASELOAD
ADULTS
(age 18 and over)

	1990	1989	1988	1987	1986
Cases under Supervision Ending December 31st	659	574	553	498	608
New Cases Opened	674	635	553	555	654
Court Reports	160	143	136	161	158
New Charges (Breach of Probation)	83	61	69	66	74

TABLE "B"
PROBATION SERVICES CASELOAD
YOUNG OFFENDERS
(age 12 to 18th birthday at time of original offence)

	1990	1989	*1988	1987	1986
Cases under Supervision Ending December 31st	379	326	218	244	305
New Cases Opened	364	412	209	219	254
Court Reports	149	152	75	158	173
New Charges (Breach of Probation)	44	31	14	25	17

*Youth Court did not operate for approximately five months.

Family (Court) Counsellors

Family Court Counsellors continue to provide services out of the Courthouse in Charlottetown and from the Regional Services Centres in Summerside, O'Leary, Montague and Souris on a demand basis.

In 1990, the number of reports requested by the Court was approximately the same as in 1989. Irene MacInnis, Senior Family Court Counsellor, retired in July after a distinguished career of fifteen years with this service. This service owes a debt of gratitude to Mrs. MacInnis for her dedication and commitment to her work and to the service.

Throughout 1990, the Family Court Counsellors had opportunities to attend workshops on a variety of topics such as Mediation, Working with Resistant Clients, Grief Behaviour in Children, etc.

The area of mediation remains one of the most challenging functions for Family Court Counsellors. Referrals for mediation have increased during the past year.

Temporary Absence Program

Staff of Probation Services assessed and investigated 129 applications from sentenced inmates of the Provincial Correctional Centre, Kings County Jail and Prince County Jail, under the regular Temporary Absence Program. Of these the Department of Justice authorized 105 temporary absences. This compares with 124 in 1989 and 150 in 1988. Of the 105 releases 6 were for purposes of employment or paid training; 3 for purposes of education; 60 for purposes of treatment (49 alcohol and 11 medical/psychiatric) and 36 for rehabilitative or humanitarian reasons.

There were 6 violations of temporary absence privileges for 1990 as compared to 5 for 1989 and 10 for 1988.

The above releases do not include releases where inmates were escorted by correctional officers, probation officers or under the general supervision of community supervisors in a voluntary capacity, nor do they include releases by the National Parole Board on either day or full parole. As well, these releases do not include inmates released under the Christmas Temporary Absence Program outlined below.

Christmas Temporary Absence

The Christmas Temporary Absence Program established in 1971 where sentenced inmates in provincial institutions were provided the opportunity of spending some time with family and/or friends was continued in 1990. Twenty-three inmates were provided the opportunity of being released for varying periods of time (7-48 hours).

CUSTODY PROGRAMS BRANCH

Existing Programs & Facilities

Young Offender

Highlights: The following initiatives were completed: Program Manual revised; Anger Management and Victims Awareness implemented; Atlantic Managers Conference; school program demonstrated an average grade level advancement of 1.3 grade levels per resident with 56% of discharged youth returning to the regular school system; Occupational Health and Safety Committee established; increased community service both court ordered and volunteer. The number of runs by young offenders dropped from 23 in 1989 to 4 in 1990.

Special Events: Caravan About Drugs; Teen Challenge; Terry Fox Run; Open Houses; Summer and Winter Olympics; Family Appreciation Days; camp and canoe trips.

Current Initiatives: The following committee work/project work is ongoing within the Section: Standards Committee; Infection Control Manual and in-service training committee; committee to develop the Section's Orientation Manual; participation on Divisional Training Committee; Cognitive Intervention Research Committee.

Prince Edward Island Youth Centre, Summerside: During its second full year of operation, this facility operated at 80.5% capacity during the first six months and 54% capacity during the last six months of the year with an average over the year of 67%. In line with budget restraint, one unit was temporarily closed late in the year and those employees used to fill vacancies on other units, thus reducing relief and overtime costs.

Georgetown Youth Centre: This Centre operated at an average capacity of 88.2% during the year. Peak client demand resulted in two months wherein the Centre operated over capacity, 102% and 106% respectively.

Tyne Valley Youth Centre: This Centre operated at an average of 72.5% capacity during the year. Peak months resulted in occupancy rates of 100% and 91% respectively.

Community Custody Program: The combined Alternative Residential Placement/ Community Youth Worker (ARP/CYW) Program caseload rose steadily throughout the year. In January 1990 the caseload was 67, by December 123, an 83% increase. Twenty three youth were placed under the ARP foster home program.

Summary

Currently there are more young offenders in the system than has been the case since the *Young Offenders Act* was proclaimed in 1984. During late 1990, service demand was concentrated at the front end of the Section's programs (i.e. ARP/CYW, Open Custody Centres), with a resulting decline in demand for secure custody. Six months out of the seven year experience under the *Young Offenders Act* makes future projections difficult, however, it is hoped that the decline in demand for secure custody is not only a reflection of more youth at the front end of the system, but also a result of high-quality, effective service being offered by ARP/CYW, Probation and Open Custody Programs.

It is believed that programs geared to earlier intervention are preventing, or, at least delaying youth reaching secure custody. Trends in service demand will be monitored closely during fiscal year 1991-92 and the Section's human resources allocated accordingly.

During the year as staff gained experience, operational standards improved, programs stabilized and expanded, crisis situations were reduced. Ensuring adequate resources, both human and physical, to guarantee the highest possible standard of service delivery remains the Section's first priority.

Table "C" is a statistical table of the number of offender days in each young offenders custody program/location.

TABLE "C"
(TOTAL DAYS BY YOUTH FACILITY)

	LOCK-UP		REMAND		OPEN CUSTODY		SECURE CUSTODY		FACILITY TOTAL	
	1990	1989	1990	1989	1990	1989	1990	1989	1990	1989
GEORGETOWN YOUTH CENTRE	0	0	0	0	2576	2035	0	0	2576	2035
SUMMERSIDE YOUTH CENTRE	0	0	0	0	0	84	0	0	0	84
TYNE VALLEY YOUTH CENTRE	0	0	0	0	2200	1352	0	0	2200	1352
PRINCE EDWARD ISLAND YOUTH CENTRE	62	39	730	1066	0	0	7568	7061	8360	8166
COMMUNITY PLACEMENTS	0	0	0	0	10	875	0	0	10	875
OUT OF PROVINCE	0	0	0	0	0	53	0	152	0	205
ADULT FACILITIES	111	109	0	0	0	0	0	0	111	109
TOTAL	173	148	730	1066	4786	4399	7568	7213	13257	12826

Adult

General

The Adult Facilities section of the Community and Correctional Services Division of the Department of Justice and Attorney General experienced similar total numbers of inmate admissions for 1990. Prince County Jail and Kings County Jail experienced specific increases in the sentenced inmate admissions. The number of sentenced inmate admissions at the Provincial Correctional Centre decreased in 1990. However, of significance is that all facilities show an increase in inmate days.

The per diem billing rate for holding a prisoner for the 1990 year is $99.10

The number of inmates held before transfer to a federal penitentiary was 35. Of these, 24 were sentenced by Prince Edward Island courts, 11 were federal parole violators. The corresponding numbers in 1989 were 26 and 13.

There were no inmate deaths in the Province during the year. Staff dealt with eight suicide attempts.

Provincial Correctional Centre: The capacity of this facility remained at 96 beds during the year.

Change has been significant at the Provincial Correctional Centre during 1990. As a result of several of the recommendations of the Program Review report prepared in 1988 the Centre has moved toward the implementation of the concept of unit management.

This has led to a restructuring of staffing positions and an overall realignment of staff responsibilities within existing budgets. To this end, supervisors have been placed directly in the living units and given the added responsibility of implementing the casework process in addition to their regular supervisory functions.

The casework process allows for the assessment of all inmates at the Correctional Centre through the development of a case plan designed to meet individual needs. The development of the case plan will be the responsibility of the Correctional Officer under the direction of two Casework Supervisors.

The Casework Supervisor positions will replace the traditional position of Deputy Superintendent and thus have the responsibility of overseeing the general operations of the facility.

1990 also saw the creation of an Educational Coordinator position and a Business Manager position as a result of the Program Review. The Education Coordinator will provide an educational program for inmates. In addition, the Coordinator will provide educational assessment for the case plan process.

The Centre continued to operate its traditional inmate programs and treatment modules. As well, the Centre made inmates available to assist in various community service projects including working with seniors, church groups and voluntary organizations.

Staff and inmates at the Provincial Correctional Centre, in conjunction with the Prince County Jail and Kings County Jail participated in another successful Terry Fox Run raising in excess of $1,200 for this worthwhile cause.

Mr. and Mrs. Rollie Fox visited the Provincial Correctional Centre in appreciation of the work done by staff and inmates over the years.

1991 promises to see the completion of the Program Review. A major initiative for the upcoming year is staff training and a continual concentration on the delivery of unit management and the casework process.

There were four escapes from the Correctional Centre involving nine inmates during the year.

Prince County Jail: The capacity of this facility at year end was 30 beds.

This is the first full year of operation for this facility since extensive renovations were done in 1989. Limited case management was initiated in January, 1990. An emphasis was placed upon the development of inmate programs. To this end inmates and staff have been involved in a limited way with various community service work projects for non-profit organizations in the surrounding community. Further expansion is planned in this area for 1991.

There was one escape from this institution involving one inmate during the year.

Kings County Jail: The capacity for this facility is 14 beds.

The renovations planned for 1990 to bring this facility up to acceptable operational standards did not occur. Accordingly, plans for an expansion of inmate programming, particularly in the area of treatment for the chronic impaired driver, did not occur at the rate originally anticipated.

Nevertheless, this facility continues to run at a high rate of occupancy. Sentenced inmate admissions for 1990 have increased by 36% while the inmate days total more than double that of 1989.

The major initiatives for Kings County Jail in 1991 is to continue to plan for major renovations and to further develop the impaired driving program for chronic offenders.

Table "D" identifies the number of inmate admissions to the Correctional Centre and each jail during the year under the categories of: (1) Lock-up (police arrestees held prior to court appearance, federal parole violators, immigration detainees); (2) Court Remands; and (3) Sentenced. Only status upon original admission is counted. Inmates who change from lock-up to remand or sentence status or from remand to sentence status without release are not re-counted under their new category.

Of the 183 remand admissions during the year, 123 eventually changed to sentenced status without release. They do not appear in the sentenced column of Table "D."

TABLE "D"
(INMATE ADMISSIONS)

	LOCK-UPS		REMAND		SENTENCED	
	1990	1989	1990	1989	1990	1989
Provincial Correctional Centre						
Adult						
Male	1007	943	85	81	699	943
Female	95	69	3	10	62	58
TOTAL	1102	1012	88	91	761	1001
Prince County Jail						
Adult						
Male	412	347	78	26	353	164
Female	17	9	0	2	2	1
TOTAL	429	356	78	28	355	165
Kings County Jail						
Adult						
Male	209	158	17	8	228	134
Female	10	3	0	0	0	1
TOTAL	219	161	17	8	228	135
Total 2 Jails +						
Provincial						
Correctional Centre						
Adult						
Male	1628	1448	180	115	1280	1241
Female	122	81	3	12	64	60
TOTAL	1750	1529	183	127	1344	1301

Table "E" is a statistical table of the number of days served by inmates in 1990 in each jail and the Correctional Centre under the categories of: (1) Lock-up; (2) Remand; and (3) Sentenced.

TABLE "E"
(INMATE DAYS)

	LOCK-UPS		REMAND		SENTENCED	
	1990	1989	1990	1989	1990	1989
Provincial Correctional Centre						
Adult						
Male	1022	1101	3449	2843	25705	25088
Female	95	69	130	103	547	813
TOTAL	1117	1170	3579	2946	26252	25901
Prince County Jail						
Adult						
Male	415	351	777	121	4262	1252
Female	17	9	0	2	4	2
TOTAL	432	360	777	123	4266	1254
Kings County Jail						
Adult						
Male	217	158	192	27	1668	762
Female	10	3	0	0	0	3
TOTAL	227	161	192	27	1668	765
Total 2 Jails + Provincial Correctional Centre						
Adult						
Male	1654	1610	4418	2991	31635	27102
Female	122	81	130	105	551	818
TOTAL	1776	1691	4548	3096	32186	27920

SPECIAL PROGRAMS

Justice Resource Service Crime Prevention

The Justice Resource Service completed the Community Crime Prevention Project in June, 1990. This project was funded through the Solicitor General of Canada and the Prince Edward Island Department of Justice.

The intent was to develop a province-wide crime prevention strategy over a three year period. The project focused on family violence, youth and impaired driving, with the overall objective of increasing community involvement in these and related issues. The program provided consultation, resources, and other support to local organizations and communities in developing community based programs.

A final report is available upon request.

The Justice Resource Service continued to provide administrative support and resources to a number of interagency committees including the Interministerial Committee on Family Violence and the Implementation Committee on Impaired Driving.

Several funding proposals were prepared dealing with a variety of issues; for example, sexual abuse and the criminal justice system, encouraging the safer communities concept, and developing further strategies to combat impaired driving. The latter proposal has received federal funding until March, 1992, from Health & Welfare Canada. Ms. Anita Burdett is the coordinator of this project.

As of September, 1990 the Justice Resource Service has been operating on a half-time basis. The coordinator of the Justice Resource Service is also coordinating Community Consultations on Family Violence Prevention. This process grew out of the work of the Interministerial Committee on Family Violence and is under the leadership of the Department of Health and Social Services.

A highlight of the year was the 4th Annual Crime Prevention Month in November. The month's activities included the second annual conference on impaired driving and provincial crime prevention awards.

The Justice Resource Service continues to work closely with the police, other justice agencies and many community organizations in promoting and encouraging a community work approach to Justice issues.

Integrated Justice Information System

The development of automated systems to support the administration of criminal justice in the Province, which began in 1987 with the implementation of an automated Youth Courts Registry, a Fines Management System, an Adult Courts Registry (1988), and a Victim's Case Management System (1989), was expanded in 1990 with the implementation of an Offender Management System. This system will include adult and youth facilities as well as Probation offices. The system will assist in case tracking, case management, program development and statistical reporting.

The Offender Management System will be operational in the Prince Edward Island Youth Centre, Summerside, before being placed in the Provincial Correctional Centre, followed by Probation offices.

Work began in late 1990 on a feasibility study for a Police Operational Information and Provincial Crime Reporting System. This feasibility project is being carried out by the DMR Consulting Group and is to be completed by March 31, 1991. The study should identify requirements and set out the preferred option(s) for further system development.

The Department of Justice is grateful to the Canadian Centre of Justice Statistics for its financial and other assistance, as well as Computer Services staff for their support and guidance. Also a great many individuals from criminal justice agencies in the province have contributed significantly to our efforts to develop a truly automated Integrated Justice Information System in the province.

Victim Services Program

During 1990, the Victim Services Program was fully operational across Prince Edward Island. Staff included one coordinator, two Victim Services workers, and two part-time secretaries. Victim Services staff follow up from the initial police response to victims of crime and assist victims as their cases proceed through the criminal justice system.

A total of 812 new cases were opened during 1990. The 812 victims of crime contacted and offered assistance included: 419 general victims (52%), 234 wife abuse victims (29%), 72 sexual abuse victims (9%), 56 other family abuse victims (7%), and 31 commercial/institutional victims (4%).

Table "F" illustrates the types of Victim Services cases and the police agency (municipal police department or RCMP detachment) involved in each case. The Charlottetown Police Department was involved in the largest number of cases (308 or 38%), followed by the Summerside Police Department (133 or 16%), and Charlottetown RCMP (98 or 12%).

The types of crimes committed against these victims were most frequently assaults (382 or 47%); break, enter, and theft (81 or 10%); sexual assaults (72 or 9%); harassment (70 or 9%); threats (47 or 6%); and damage to property (41 or 5%). Also included were 38 cases of theft (5%) and 15 cases of driving offences resulting in injury or death (2%). The remainder consisted of a variety of types of crime, including 8 cases of robbery and 2 cases of attempted murder.

In addition to the 812 new cases, a number of cases opened during 1989 continued to be active during 1990.

Approximately 75% of Victim Services clients are female. Age range distribution of Victim Services clients is approximately 45% in the 21-40 age range, 30% in the 12-20 age range, and 15% in the 41-60 age range. Few clients are under 12 or over 60 years of age.

Assistance provided to victims of crime included: information about case status, the criminal justice system, and court procedures; investigations of applications for criminal injuries compensation; emotional support and short-term counselling; referrals for legal, financial, and long-term counselling services; and assistance through the court process and with the preparation of victim impact statements. Because the level of assistance varied depending on the needs of the particular victim, the time involved with each case ranged from a few minutes (e.g., providing information about available services and/or cases status) to many hours.

Victim impact statements outline the physical, emotional, and financial effects of the crime on the victim. After a finding of guilt the judge may take a victim impact statement into consideration when deciding on sentence. During 1990, Victim Services staff assisted with the preparation and filing of approximately 180 victim impact statements.

Under the *Victims of Crime Act*, Part IV, Victim Services is responsible for investigating claims for criminal injuries compensation. Victim Services staff also assist victims with preparing their applications and gathering information to support their claims. During 1990, Victim Services staff investigated 36 claims for criminal injuries compensation. A lawyer within the Legal Services Division adjudicates claims. A separate annual report on criminal injuries compensation is being prepared by the adjudicator.

The federal Department of Justice is assisting financially with the establishment of the Prince Edward Island Victim Services Program. In the longer term, the program, including criminal injuries compensation awards, is to be financed through costsharing agreements and revenue from the surcharge now being collected on federal and provincial convictions.

TABLE "F"

Department of Justice Victim Services

VICTIM CASE CLASSIFICATION JAN/01/90 TO DEC/31/90

Police Jurisdiction	Commercial/ Institutional	General	Sexual Abuse	Wife Abuse	Other Family Abuse	TOTAL
Alberton RCMP	6	24	2	12	4	48
Borden Police	0	2	0	1	0	3
Borden RCMP	2	3	0	5	2	12
Crown	0	0	0	1	0	1
Summerside CFB	0	0	1	0	0	1
Charlottetown City Police	7	191	16	77	17	308
Charlottetown RCMP	0	38	21	34	5	98
Kensington Town Police	0	1	1	2	0	4
Montague RCMP	3	32	13	22	5	75
St. Eleanors	2	5	1	3	1	12
Summerside RCMP	1	20	3	16	2	42
Summerside Town Police	10	75	6	33	9	133
Sherwood/Parkdale RCMP	0	9	1	15	6	31
Souris RCMP	0	19	7	13	5	44
GRAND TOTALS	31	419	72	234	56	812
PERCENTILE	4	52	9	29	7	100

Initiatives for 1991

In addition to ongoing demands on the division particular attention will be focused on the following in 1991.

1. Finalization of a training plan for divisional staff, including a training calendar for 1991-92.
2. Continuation toward the full implementation of the automated Integrated Justice Information System. This will require the establishment of a coordinator function.
3. Development of an operational review policy and process for divisional programs.
4. Further attention on and resolution of risk and liability issues in the context of government policy.

5. Renovations to Kings County Jail, as well as the implementation of a special program at this facility for repeat impaired drivers.

6. Further development of an adult education program for inmates at the Provincial Correctional Centre with a focus on life skills and decision making.

7. Continued work on and further development of crime prevention and community involvement initiatives with a focus on family violence, youth and impaired driving.

8. Continued work on the development and revision of policy and procedures for divisional programs and staff, as well as legislative amendments and the development of a new *Correctional Services Act* for adult facilities.

9. The development of new public information and resource material on divisional programs.

CONSUMER SERVICES DIVISION

1. The Consumer Services Division is responsible for the administration of the following programs:

Program	Statutory Reference
(a) Video Classification	(a) Films Act
(b) Debtor Assistance	(b) Orderly Payment of Debts, Part X of the Bankruptcy Act
(c) Regulation of Charitable Gaming	(c) Lottery Schemes Order
(d) Gun Control	(d) Sections 105-116, Criminal Code
(e) Consumer Education and Information	(e) Various Provincial Statutes
(f) Consumer Complaints and Inquiries	(f) Various Provincial Statutes
(g) Licensing and Registration of Various Industries	(f) Various Provincial Statutes

2. Video Classification

The *Films Act* became law on January 1, 1988. Under this Act any retail video outlet which rents, sells, leases or otherwise distributes movies or videos must be licensed and ensure that films are properly stickered with the proper classification sticker. Films which have been prohibited by the Classification Board or which have yet to be submitted for classification cannot be rented or sold. No film containing material of a sexually explicit nature may be rented or sold to any person under the age of eighteen years. In the three years that this law has been in force, there have been no public complaints regarding compliance by video outlets. However, a number of films have been confiscated pursuant to Regulation 7. No prosecutions have been commenced. Relevant statistics are as follows:

	1990	1989
Video Licenses Issued (One & Two Year License Terms)	108	55

3. Debtor Assistance Program Orderly Payments of Debts Part X Bankruptcy Act

Through this program, an alternative to Consumer Bankruptcy, a person pays off their debts by making a series of monthly payments to the Clerk of the Court. Through OPD a debtor is given the opportunity to retire their debts over an extended period of time, consistent with their ability, while still maintaining a reasonable standard of living. The year 1990 was a busy year in that the requests for assistance from individuals with financial problems increased considerably over 1989. The relevant statistics are as follows:

		1990	1989
(a)	Funds Disbursed to Creditors	$98,833	$72,716
(b)	Debtor Interviews & Reviews	181	126

In 1990, fourteen new Consolidation Orders (new files) were issued as compared to seventeen in 1989. Five clients retired their debts in full during 1990 for a net increase in active paying files. Many of the debtors interview and counseled in 1990 were referred to consumer bankruptcy as their financial situation was such that bankruptcy was the only option.

4. Regulation of Charitable Gaming

The Lottery Schemes Order made pursuant to Section 207 of the Criminal Code of Canada empowers the Province to license and set terms and conditions for the operation of charitable gaming in the Province. These include bingos, raffles, lotteries, casino nights, 50/50 draws and sports pools.

The Order was amended effective January 1, 1990, to lower the existing bingo prize limits to enable the charities to earn more money from their operations. The 1989 and 1990 licensing and financial statistics would indicate that this change has met the objective.

		1990	1989
(a)	Lottery Schemes Licenses Issued	560	454
(b)	Bingos licenses	66	51

Bingo Revenue and Expenses		**1990**	**1989**
(c)	Total Receipts	$11,674,000	$10,714,000
(d)	Prizes Paid Out	8,580,000	7,829,000
(e)	Wages to Employees	306,000	352,000
(f)	Supplies (bingo paper)	557,000	520,000
(g)	License fees	172,000	157,000
(h)	Advertising	150,000	116,000
(i)	Rent	197,000	219,000
(j)	Other Expenses	117,000	65,000
(k)	Total	$10,079,000	$ 9,258,000
(l)	Profit (c-k)	$ 1,595,000	$ 1,456,000

5. Gun Control Section 105-116, Criminal Code of Canada

In July, 1990 the responsibility for the administration of this program was transferred from the Legal Services Division to Consumer Services Division; and the Director was appointed as Chief Provincial Firearms Officer. In addition, a Firearms Officer was hired to assist in the administration of these statutes and others.

All Firearms Acquisition Certificates (F.A.C.) and Business Permits (dealers) are issued under the authority of Section 106 of the Criminal Code of Canada. F.A.C.'s are issued by the various municipal police departments and all R.C.M.P. detachments in this province. Business permits are issued by the Chief Provincial Firearms Officer. All gun dealers are subject to an annual inspection for the purposes of inspecting record keeping and security measures. At year end there were twenty-eight (28) businesses licensed to sell firearms and eleven (11) businesses licensed to sell ammunition only. In 1990, seven hundred and eight (708) F.A.C.'s were issued in this province and seven hundred and thirtynine (739) firearms purchased by the public.

As well, the Attorney General has approved two shooting clubs.

Provincial officials have been actively involved in consultations with the Federal Government concerning Bill C-80, the amendments to the Criminal Code of Canada on firearms.

6. Consumer Education and Information

In 1990 various staff of the division spoke to thirty-three different groups and educational institutions. Included in these were pre-retirement courses, community schools, credit granting associations, Credit Union employees conference, crime prevention workshops and job re-entry courses.

As well, staff conducted several media interviews with both print and electronic media on issues of consumer interest. Several press releases were prepared and issued containing consumer tips on rights and responsibilities in marketplace transactions.

7. Consumer Complaints and Inquiries

Consumers can obtain information or assistance under two circumstances: prior to a purchase, an inquiry; and post purchase, a complaint.

Prepurchase -- a consumer can obtain copies of ratings on products as well as generic information on "how to" buy. Post purchase complaints where a problem has developed are responded to by providing information on consumer rights provided for in legislation and mediation upon request of the consumer or merchant. A complaint which involved a situation of non-compliance by a firm whose activity is subject to one of the assigned statutes is investigated and, when necessary, corrective measures are taken.

			1989	1990
(a)	**Complaints**			
	(i)	Motor Vehicle Sales and Repairs	170	162
	(ii)	Home Construction and Renovations	16	13
	(iii)	Appliances Sales and Service	55	49
	(iv)	Mail Order/Direct Sales	229	262
	(v)	Collections/Credit	75	89
	(vi)	Financial/Debtor Problems	168	211
	(vii)	Other	663	677
		Total	**1378**	**1463**
(b)	**Inquiries**		**1773**	**2006**

8. Licensing & Registration of Various Industries

In addition to those statutes mentioned elsewhere, this division also administers the following statutes which require a license or registration:

(a) *Auctioneers Act*
(b) *Cemeteries Act*
(c) *Charities Act*
(d) *Collection Agencies Act*
(e) *Consumer Protection Act*
(f) *Consumer Reporting Act*
(g) *Direct Sellers Act*
(h) *Private Investigators & Security Guards Act*

As well, the division is responsible for the administration of several other statutes, while no license or registration is required, do prescribe rules of conduct. These are:

(a) *Business Practices Act*
(b) *Prearranged Funeral Services Act*
(c) *Tax Rebate Discounting Act**

*Federal Statute

The licensing statistics for 1989 and 1990 are as follows:

		1989	1990
(a)	Direct Sellers Licensed	205	116
(b)	Collecting Agencies Licensed (Two-year license term)	1	4
(c)	Consumer Reporting Agencies Licensed (Two-year license term)	0	6
(d)	Auctioneers Licensed	32	27
(e)	Private Investigators and Security Guards Licensed	127	145

9. **Personnel**

Director: Eric Goodwin
Consumer Services Officer: Edna Lord
Compliance Officer: Barry MacDonald
Inspection Officer: Mike Blanchard
Secretary/Receptionist: Marlene Hughes
Secretary: Debbie MacKenzie

CORPORATIONS DIVISION

Acts Administered

The Corporations Division of the Department of Justice is responsible for the following Acts:

Companies Act
Condominium Act
Co-operative Associations Act
Corporation Securities Registration Act
Credit Union Act
Licensing Act
Limited Partnership Act
Partnership Act
Securities Act
Winding Up Act

Statistics

Following are statistics which pertain to the various statutes administered by the Corporations Division:

Companies Act

	1990	1989
Incorporations during the year		
Business Corporations	366	355
Non-profit Corporations	46	49
Total New Corporations	412	404
Certificates of Good Standing under the Companies Act and Licensing Act	278	278
Annual Returns filed under Section 80 of the Companies Act	3,021	3,886

The number of incorporations during 1990 remained about the same as for 1989. The annual return filings were **22%** below the number filed for 1989. In 1990 there were **88** companies dissolved because of failure to file annual returns and there were **15** companies who were issued Certificates of Revival.

Co-operative Associations Act

There are some 90 active co-operatives in the Province.

During 1990 there were **10** new co-operatives incorporated and 11 were incorporated in 1989.

Corporations Division staff continue to work closely with co-operatives, especially through the Co-operative Union of Prince Edward Island, which acts as the voice of the co-operative movement in Prince Edward Island.

Corporation Securities Registration Act

Registrations under this Act totalled **420** in 1990 and 312 in 1989. This represents an increase of **35%** in registrations. In 1990 there were **90** Certificates of Status issued as opposed to 99 in 1989.

Credit Union Act

The *Credit Union Act* is administered by the P.E.I. Credit Union League Limited, which also carries out inspections of credit unions. A separate report on credit unions, as compiled by the League, is also presented in the Legislature.

The Credit Union League staff communicates regularly with the Department to keep it informed about the credit union movement.

Licensing Act

All out-of-province businesses carrying on business in this province are required to register under the *Licensing Act* regardless of whether they have an office or employees in the province. Such business organizations include banks, trust companies, loan companies, finance companies, chain stores, oil and gas companies, construction companies, manufacturers and generally all corporations not incorporated under the laws of this province and having their head office or chief place of business located outside the province.

	1990	1989
Companies registered under this Act	2,199	2,247

Partnership Act

The business names of sole proprietorships and partnerships are registered under the *Partnership Act* as well as the trade names of corporations.

	1990	1989
Declarations of proprietorships, partnerships and trade names filed during the year	860	935
Dissolutions Filed	190	184

Effective July 1, 1990, amendments to the *Partnership Act* came into force. Declarations filed under this Act now expire three years after the date of filing unless renewed and all declarations in existence prior to July 1, 1990 will expire on June 30, 1993. This will enable the Registrar to purge the register of business names which are no longer in use. Also effective July 1, 1990 all forms used to register business names were changed.

Securities Act

The *Securities Act* regulates the sale of securities to the public and provides for the licensing of brokers and salesmen.

The following registrations and filings were made under the Act:

	1990	1989
Licenses issued:		
Resident salesmen	130	111
Non-resident salesmen	58	20
Brokers	40	41
Personnel changes	106	NA
Prospectuses registered	540	539
Prospectus amendments registered	137	128
Certificates of Exemption from full prospectus requirements	53	81
Lapse date extensions	16	NA

Revenue

The Corporations Division collects fees under the various statutes it administers. Effective April 1, 1990 the fees charged for filings under the *Companies Act*, the *Partnership Act*, and the *Licensing Act* were increased. The new fee structure is consistent with that of the other Maritime jurisdictions. Revenue of $1,122,000 is expected for the fiscal year ending March 31, 1991. For fiscal year 1991/92, revenue is expected to total approximately $1,224,500.

Comments

Corporations Division staff spend a significant amount of time responding to inquiries from the public as the information filed in the Division is public information. Requests for information about corporations, co-operatives, partnerships, or other matters come from the legal and accounting professions, other government departments, police authorities, businessmen, bankers and other financial institutions and the public at large.

Personnel

Director: Edison Shea
Corporations Officer: Merrill Wigginton
Corporations Records Supervisor: Sandra Furlotte
Administrative Assistant: Sheila MacNevin
Administrative Assistant: Norma MacMillan
Clerk: Kay Constable
Clerk: Lori Stewart
Clerk: Sherry Coles
Clerk: Brenda Storring

CROWN ATTORNEY'S OFFICE

The Crown Attorney's office is mandated to represent the Attorney General of the Province in all aspects of his prosecutorial function; that is, among other matters, to advise on and prosecute all offences in the Province under the Criminal Code of Canada and those under provincial statutes in the courts of the Province. The office also represents the Attorney General on all appeals arising out of the operation of the Attorney General's prosecutorial function in the Province, launched either by the Attorney General or by the defendant in the Supreme Court of Prince Edward Island and the Supreme Court of Canada. Full-time offices are maintained in both Charlottetown and Summerside.

The work flows into the Crown Attorney's Office from the investigations of approximately 200 peace officers located in ten locations covering the Province. Work is also referred from provincial departments, victims and numerous sources inside and outside the Province. The prosecutions arising from these investigations are argued before the courts of the Province in the five locations jurisdictionally set up for the purpose. Appeals from these prosecutions are heard in Summerside and Charlottetown.

The Year

1. The year 1990 is most notable for the number of important and serious cases completed. In April, the Supreme Court of Canada decided a long and involved challenge to the constitutionality of the *Young Offenders Act*. The Province of Prince Edward Island argued successfully that the *Young Offenders Act* was constitutionally valid legislation and its functioning before the Provincial Court was also found to be constitutionally valid. This year also saw the completion of a murder case which caught the attention and raised the concern of all Islanders. The Crown Attorney's office also completed a serious fraud case brought to court after extradition of the offender from the United States. This is the first instance in this province in which an accused was so extradicted.

2. Assaults in 1990 have risen by 30% over 1989. There is no question that personal violence in our community is increasing both in terms of the number of cases prosecuted and the seriousness of the assaults.

3. The investigation and prosecution of sexual offences remains of pressing and substantial concern. In 1990, 168 charges were laid in Charlottetown and Summerside. Additional charges were laid in Souris, Montague, Alberton and Borden. At any time throughout the year, the Crown office has 30-35 ongoing cases which require continuous attention.

   One Crown Attorney is solely responsible for prosecution of sexual offences in the Charlottetown and Georgetown Courts. This Crown Attorney is also a resource person for other Crowns who from time to time must prosecute such cases. This responsibility is heavy and is essential to an effective treatment of these cases.

4. In 1990 there were 116 elections to trial by a Supreme Court without jury and, in that same time period, 93 cases were heard and decided. These statistics indicate that Supreme Court elections are at an all time high. For example, in 1985 only 23 cases were heard and decided by the Supreme Court.

This trend is significant. With such an increase in Supreme Court elections, there has been a corresponding decrease in Provincial Court trials (although the Provincial Court continues to hear preliminary inquiries in cases where the election is Supreme Court). From the Crown's perspective, the procedures involved in prosecuting a case where the election has been Supreme Court are much more involved and time consuming. The amount of time and work necessary to prosecute these cases is considerable. It will be interesting to see if a similar trend develops in elections for trial by Supreme Court with a jury.

Appeals, be they appeals of summary conviction or indictable offences, are the responsibility of one Crown Attorney. Since 1985, there has been a continuous increase in appeals. As time has evolved and the number of appeals has increased, it has become necessary to assign one Crown Attorney to deal with appeals on a full time basis.

The addition of staff in 1990 and 1989 has improved the response by the Crown Attorney's division to steadily increasing demands for prosecutorial services. The assimilation of new staff has been swift and for the most part functionally smooth.

To effectively administer staff in the division, there must be an equitable distribution of the workload to staff who have time to research and prepare. As well, administration must provide for necessary flexibility and/or additional resources to respond to unpredictable and serious additional demands which are continually arising and are disruptive to the existing routine. Administration staff and lawyers are working together in developing office systems, procedures and practices to control the predictable and lessen the effects of the unpredictable. In this regard, Crown Attorneys and staff have had meetings, discussions and studied ways to priorize work and develop those practices and techniques which will make our work more effective in what seems to be the law of outstripping demand. Steps taken so far have been helpful; yet more needs to be done.

Human and technical resources presently available are taxed at present demand. Technical and other mechanical resources may be made available when necessary to enhance the office function. It is however to the human resources, both support staff and professional, that real attention must be given. It is imperative that Crown Attorneys be well educated and well trained. Priority must be given to ensuring Crowns are kept up to date in areas of the law. More specialization, more education and more skilled training is absolutely necessary to meet the complex demands in a multifaceted justice regime where the law is developing rapidly and where interest and concern of public observer(s) and victim(s) is acute.

In this respect the Crown Attorney's office will be promoting education and professional development so that confidence in the representation by Crown Attorneys will be maintained.

Personnel

Director: Richard B. Hubley, Q.C., Charlottetown Office
Crown Attorney: Darrell E. Coombs, Charlottetown Office
Crown Attorney: David P. O'Brien, Summerside Office
Crown Attorney: Agnes E. MacDonald, Charlottetown Office
Crown Attorney: Bert Visser, Charlottetown Office
Crown Attorney: Cyndria Wedge, Charlottetown Office
Crown Attorney: Gerald Quinn, Summerside Office
Administrative Assistant: Linda M. Peters
Secretary: M. Paulette Neale
Secretary: Wendy R. MacDougall
Secretary: Michelle Montgomery

SUPERINTENDENT OF INSURANCE

Insurance

	1990	1989
Companies registered and licensed	231	247
Applicants examined	133	107
Insurance agents' licenses issued	352	297
Insurance adjusters' licenses issued	45	42

Comments

Automobile insurance premiums were up in 1990 due to loss experiences in the recent years. While market conditions have improved, some difficulties continue to be experienced in areas of liability cover, especially pollution or environmental impairment. The Self Insurance Program (SIP), established four years ago, continues to work well. Government, school units and hospitals continue to be covered under the program.

The Province of Ontario has now considered the Task Force Report on Insurance and a number of the recommendations have been implemented, including the new Motorist Insurance Program. While it is too early to determine the success of this program, and its implications for other provinces, this office will continue to monitor the situation closely.

The Canadian Council of Insurance Regulators, in conjunction with the Insurance Bureau of Canada and other segments of the industry, have established a Compensation Fund for all of Canada. The Fund indemnifies claimants of insolvent insurer and is funded by an assessment on all licensed insurers. This plan became operational in 1988. A similar Compensation Fund, developed in conjunction with the Canadian Life and Health Insurance Association for the life and health industry, became operational in 1990.

The Facility Association, which is designed to cover high automobile risks, continues to work well and no major problems are being encountered.

The detailed report of the Superintendent for 1989 is provided separately and licensing statistics for 1990 are set out above. Of particular note is the constant progress made by the Prince Edward Island Mutual Fire Insurance Company during the year. The Company is well managed and this year celebrates the 106th anniversary of its founding.

The practice of examining applicants for agents' licenses continues for all classes and we believe this has greatly improved the caliber of agents and reduced the turnover which was so prevalent in the past.

All persons adjusting insurance claims in the Province must hold a valid license.

The Superintendent attended two national meetings of the Council of Insurance Regulators during the year.

Premium and Fire Prevention Tax

	1990	1989
Premium tax collected	$2,099,665.91	$1,510,930.59
Fire prevention tax collected	112,368.33	125,924.29
Totals	**$2,212,034.24**	**$1,636,854.88**

Comments

Effective April 1, 1990, Premium Tax at the rate of 3% is collected on all insurance premiums (except fraternal and marine) written in the Province. The Fire Prevention Tax, which is assessed at 1% of the total fire premiums, is basically designed to defray expenses of the Provincial Fire Marshal's office.

Official Trustee

The services of the Official Trustee continue to increase during the year with 179 active accounts. Funds held in trust fluctuate and averaged $1,653,430.22 over the period. Excess funds are invested in Deposit Receipt Certificates with the Minister of Finance and at year end amounted to $1,651,000.

The accounts are reviewed annually by the Auditor General and his report is available elsewhere.

We continue to enjoy a close working relationship with the Division of Aging of the Department of Health and Social Services, and as a result, we are able to better control the assets of patients or guests who are considered incompetent. The role of the Official Trustee is increasing, as all persons admitted to government homes that are considered incompetent are declared before admission. He is also called upon to represent estates of deceased persons in certain actions and, of course, continues to act as Administrator of Estates when no one else is available or qualified. The Official Trustee is also appointed Guardian in some situations, especially in the case where emergency surgery is considered necessary and no family member is available.

The Advisory Committee is consulted from time to time as the need arises.

Real Estate

The Superintendent of Insurance also administers the *Real Estate Trading Act*. Real estate sales by agents during 1989 amounted to 134 million dollars. Another good year is expected for 1990. Sales commissions for 1989 amounted to $5,700,000. An unknown number of properties are sold privately and those, of course, are not included in the figures given.

Two hundred and ninety (290) agents and salespersons were licensed in 1990, which is an increase over the previous year. New applicants must be bona fide residents and are required to pass a written examination which is written in this office by appointment. All agents and salespersons are bonded. A total of thirty-eight examinations were written in 1989.

Personnel

Superintendent of Insurance: Bennett Campbell
Secretary: Marlene Phelan

JUDICIAL DIVISION

Function and Organization

This Division is responsible for the design and maintenance of an administrative structure that meets the needs of all courts throughout Prince Edward Island. Its primary and continuing objective is to make appropriate and effective use of personnel and other resources to develop and manage comprehensive court services program throughout the Province.

The overall strength of personnel in the Division is 38 with distribution as follows:

	Charlottetown	Summerside	Alberton	Georgetown	Souris
Prothonotary	1	-	-	-	-
Registrar	1	-	-	-	-
Legal Serv Off	5	1	-	-	-
Jud. Cl1	1	-	-	-	-
Jud. Cl3	4	2	-	1	-
Crt Steno	7	-	-	-	-
1/2 time Court Steno	-	4	-	-	-
Sheriff/	1	1	-	1	-
Deputy Sheriff	1	-	-	-	-
Data Entry Clk	1	-	-	-	-
Clerk 3	3	-	-	-	-
Jud. Cl11 (21 hrs/wk)	-	1	1	-	1
TOTAL	25	9	1	2	1

The personnel provide the Courts with support services, some of which are as follows:

1. **General Administration**
   - budget and expenditure control
   - personnel transactions
   - equipment supply, purchases, etc.

2. **Judicial Administration**
   - assessment of costs
   - bankruptcy and discovery
   - supervision over court officers
   - Justice of the Peace

3. **Court Records**
   - registration and maintenance

4. **Docketing at Supreme Court Level**

5. **Stenographic, Secretarial and Clerk of the Court**

6. Sheriff Services

- jury impanelment
- process servers
- execution of Court orders

7. Financial Record Management

- approximately $3 million annually at both Court levels.

On January 28, 1991 at a special sitting of the Supreme Court, Chief Justices Norman H. Carruthers and Kenneth R. MacDonald gave a brief review of the work that was completed in the Court in 1990. Statistical information was provided in detail at the special sitting which was the sixth consecutive year the Supreme Court reported to the public in this manner.

The Provincial Court, which permanently sits in Charlottetown and Summerside and goes on circuit to Alberton and Georgetown, handled an ever increasing workload under newly appointed Chief Judge Gerald L. FitzGerald. It is expected that its circuit will be extended in early 1991 to include Souris once again.

Bar Admissions

The following individuals were admitted to the Bar of Prince Edward Island in 1990:

Kenneth A. Clark	March 15, 1990
Laurie J. MacKinley	June 8, 1990
James W. Gormley	August 16, 1990
Zia U. Chishti	August 22, 1990
Janice L. MacCallum	September 21, 1990
R. Scott Peacock	November 16, 1990

Appointments and Retirements

Charles R. McQuaid	-	retired on 31 December 1990 after 15 years service on the Supreme Court following 3 years as a Provincial Court Judge
Ralph C. Thompson	-	resigned as Chief Judge of the Provincial Court
Gerald L. FitzGerald	-	appointed as Chief Judge of the Provincial Court
Kenneth Jenkins	-	retired as Sheriff of Queens County
Layton Schurman	-	appointed Chief Sheriff of province
Preston Robbins	-	appointed as Sheriff of Queens County
Howard Kerwin	-	appointed as Sheriff of Kings County
Kevin Gotell	-	appointed Clerk of the Court and Deputy Prothonotary in Georgetown
Arthur Gennis	-	appointed Registrar of the Supreme Court being a new position created due to the implementation of new Rules of Court that came into effect on 1 August 1990.

Provincial Court

Total Monies Collected	1989	1990
Georgetown	110,972.57	159,035.19
Souris	48,655.00	(est) 61,000.00
Alberton	133,986.76	140,320.26
Charlottetown	558,952.80	673,283.10
Summerside	330,635.01	394,267.99
TOTAL	**$1,045,555.00**	**1,427,906.54**

Maintenance Enforcement Office

Since the inception of the Maintenance Enforcement Office in March of 1988, there has been an approximate $750,000 increase in collections. Child and spousal support collections rose to an all time high of 1.3 million dollars at year end. This increase in funds is evidenced by a combined effort of provincial and federal legislation and the accompanying mechanics to assist both. On a provincial level, the Act itself gives the Director not only a broader scope of enforcement but has allowed the Department of Justice to have a Maintenance Enforcement Office whose primary and only function is to assist creditors in collection and enforcement of orders and agreements granted in and outside the Province, on par with its counterparts throughout Canada. Other reasons for a higher increase in funds would indicate, for example, higher awards, increase in default hearings and an overall streamlining of the enforcement process.

Staff complement remains unchanged with the exception of the Department hiring a full-time secretary in June of 1990. We continue to use the resources of a probation officer in Prince County, and the Director has the resources of two counsel for the default hearings; one regular counsel and an alternate. In October of 1990, the IBM typewriter was replaced with a used Xerox memory typewriter which has proven useful in attempting to meet the demands of the office. The increase in funds collected has placed added stress on our bookkeeping system (manual) which remains unchanged.

We have observed an increase in volatile cases which created an increased need for security.

In conclusion, it is anticipated that the Maintenance Enforcement Office will be in a position to meet the ever growing demands placed upon it by having a staff complement ratio and a computerized enforcement program equal to its needs, and that the public is made aware of its presence and, as well, its corresponding capabilities.

Statistics 1990

Child/spousal support collected	$1,315,000.00
Actual cases registered	1,265
New registrations	166
Divorce Act (Variations)	6
Reciprocal Enforcement of Maintenance	3
Orders Act (Confirmations) Warrants issued	38

Notices prepared		280
Time actually served		2
Garnishee/wages		8
Receipts/cheques issued (manually)		8,600
Appeals filed (1 successful; 1 scheduled in 1991)		2
Family Orders and Agreements/Enforcement Assistance Act Garnishees summons (unemployment insurance)		1
Seizures	land	$3,700
	sportscar n/a	(in dispute)
	execution	$4,000
Court days assigned	two full days per a nine month period	
Registrations outside Canada	England Arizona California Minnesota	
Reciprocity Established	all provinces and territories 36 states of U.S.A. numerous foreign jurisdictions	

LEGAL AID

Introductory Note

Criminal and family legal aid services in the Province are now provided under the name Prince Edward Island Legal Aid. The title "Office of the Public Defender" will no longer be used. The change in names was an administrative change only. There has been no change in the organizational structure of the Legal Aid Program, nor has the coverage provided been changed. The purpose of the change was to bring the name of the program more in line with the titles used in the other provinces. A further objective was to avoid usage of the name Public Defenders in reference to staff lawyers performing family legal aid functions.

Criminal Legal Aid

This was the seventeenth year of the Criminal Legal Aid Program in Prince Edward Island. The service is cost shared under a Federal-Provincial Agreement which applies in all provinces.

Objective

The objective of the criminal legal aid program is to ensure equality before the criminal law throughout Canada by making lawyers available to persons who would otherwise be unable to afford legal representation in serious criminal matters. The program is designed to promote the development of national minimum standards of access to legal services in areas of federal legislation.

Eligibility

The legal aid agreement between Canada and the Province specifies that eligibility for legal assistance is to be determined by a flexible means test. In this Province the test is conducted by a staff lawyer who must weigh the seriousness of the legal proceedings and then consider whether the applicant's present means should be sufficient to actually obtain private counsel within the time required.

How Service is Obtained

To obtain service, the applicant must contact a staff lawyer in the same manner as a paying client would contact a private practitioner. Contrary to a common misconception, the courts do not assign cases to legal aid staff lawyers. Although legal aid has become an integral part of the justice system, service under the program is provided independently.

Choice of Counsel

Legal services are provided by four staff lawyers. In addition, private counsel are retained in a small percentage of cases where a scheduling problem or a conflict prevents a staff lawyer from acting. It is only in murder cases that the applicant is automatically given the choice of being represented by private counsel.

Offices

Full-time offices are maintained at the Law Courts Building in both Charlottetown and Summerside. On court days, staff lawyers also travel to Alberton, Souris, and Georgetown, if there are requests for assistance.

Cost-Sharing Formula

The federal-provincial cost-sharing agreement has been renegotiated every few years. The same cost-sharing formula applies across the Country but the level of federal contribution varies, depending on provincial per capita expenditures and other factors under a complex formula. Canada's share of criminal legal aid expenditures in this Province has consistently been in the range of 85 to 90 per cent. For the country as a whole, Canada's contribution has been in the range of 45 to 55 per cent since 1973. Statistics Canada reports that in 1988-89, per capita expenditures for Canada and the Provinces were $11.44 for criminal and civil legal aid. By comparison, expenditures for this Province were $2.47 per capita.

Young Offenders

Thirty per cent of the Criminal Legal Aid budget is allocated to service under the *Young Offenders Act*. The YOA places heavy emphasis on legal representation. Police officers and the courts are required to advise young persons of their right to counsel at all stages of the proceedings from arrest to trial. In addition, the YOA contains safeguards to ensure that young persons are given the benefit of any doubt where their eligibility for free legal counsel is unclear. Experience to date seems to indicate that most young persons are eligible for legal aid. All legal aid services under the Act are cost shared by Canada on terms similar to the present adult criminal legal aid agreement.

Duty Counsel

On February 1, 1990, the Supreme Court of Canada released the decision in *Brydges* v. *The Queen*. The decision examines the right to counsel at the arrest and detention stages of criminal proceedings. The Court ruled that the police have a duty in all cases to inform detainees of the existence and availability of duty counsel and legal aid plans. Writing for the majority, Mr. Justice Lamer (as he then was) wrote:

> All of this is to reinforce the view that the right to retain and instruct counsel, in modern Canadian society, has come to mean more than the right to retain a lawyer privately. It now also means the right to have access to counsel free of charge where the accused meets certain financial criteria set up by the provincial Legal Aid plan, and the right to have access to immediate, although temporary, advice from duty counsel irrespective of financial status. These considerations, therefore, lead me to the conclusion that as part of the information component of s. 10(b) of the Charter, a detainee should be informed of the existence and availability of the applicable systems of duty counsel and Legal Aid in the jurisdiction, in order to give the detainee a full understanding of the right to retain and instruct counsel.

Recognizing that decision would require the preparation of new cautions, the Supreme Court stated that there would be a transition period of 30 days to enable the police to properly discharge their new burden.

The Province did not have a duty counsel system in place at the time of the decision. By March 31, 1990, the year end for this report, the Province had taken temporary measures to re-allocate existing legal aid resources to provide after hours advice to detainees.

Cases Completed

The following cases were completed during the year. The definition of the term case may vary from province to province. Accordingly, costs per case and caseload statistics may be difficult to compare. In this Province, each separate charge is counted as a separate case. An applicant may have several charges arising from one incident. Likewise, charges from several incidents are often dealt with by the court at one time. In either situation, the number of cases is equal to the number of charges for statistical reporting. An appeal is also recorded as a separate case. Applications involving cases carried over from a previous year are not recorded in this report until the year in which the file is completed. In any instance where the same applicant requests assistance more than once within the same year, an additional application is recorded. During the past year, 60 individuals requested assistance on more than one occasion.

	Number Completed			
	88/89		89/90	
	YOA	ADULT	YOA	ADULT
Unlawful homicide	-	-	-	1
Robbery	-	11	-	6
Theft, possession of stolen goods, & break and enter	272	297	397	269
Fraud, false pretences	14	244	5	123
Drunk & impaired driving	15	135	11	160
Other motor vehicle	6	34	11	37
Escape unlawfully at large	9	12	10	17
Cause disturbance	8	34	7	31
Assaults	30	91	37	160
Sexual assaults	-	-	4	22
Resisting arrest	1	8	1	13
Arson	5	3	1	2
Property damage	41	36	83	59
Breach probation	9	17	32	38
Dangerous & prohibited weapons	4	9	4	4
Narcotics	12	20	13	38
Sentence review YOA	9	-	14	-
Others	13	29	9	29
	448	980	639	1,009

Summary of Legal Aid:

	88/89	89/90
Number of files (separate applications) completed and closed during the year	751	936
Number of cases (separate charges or appeals) completed in the above files	1,428	1,648
*Cases completed by private counsel	69	134
Percentage of cases completed by private counsel	4.8%	8%
Number of private counsel who participated	21	21
Cost of service rendered by private counsel *(unaudited)	$48,119.66	$53,425.98
Private counsel costs as a percentage of total expenditures	21%	20%

Number of Applications by Region:	**88/89**	**89/90**
Charlottetown	414	550
Summerside	202	262
Alberton	43	42
Georgetown	64	82
Souris	28	
		936

*In addition to the cost of the 134 cases completed by private counsel, this figure includes the cost of relief and overload assistance by private lawyers in respect of staff lawyer service.

Age of Recipients:

Young Offenders	**88/89**	**89/90**
12 - 15 years	34.5%	32%
16 - 17 years	56%	58%
18 - 19 years	9.5%	10%
Adults:		
18 - 19 years	17%	17%
20 - 24 years	33%	28%
25 - 29 years	19%	23%
30 - 34 years	9%	11%
35 - 39 years	8%	8%
40 - 59 years	13%	12%
over 59 years	1%	1%

Total Criminal Legal Expenditures	**88/89**	**89/90**
	$228,672	$261,624

Family Legal Aid:

The Family Legal Aid Program was established in 1980. The program is operated in conjunction with the Criminal Legal Aid Program which has provided cost-shared legal aid in criminal matters since 1973. Legal service for both programs is provided by a full-time staff of four lawyers and three secretaries. Administrative services are provided by the Provincial Justice Department. The Director of Legal Aid, who is one of the four staff lawyers, is responsible for the management of the program.

Objective:

The objective of family legal aid is to provide access to essential legal services in the area of family law. The program attempts to provide free legal services to eligible persons in situations where a person of modest means would hire a lawyer in private practice if faced with the same legal problem. This is the common objective of legal aid throughout Canada. The achievement of that objective has always been limited by the availability of staff and budgetary resources. Prince Edward Island has not been able to achieve national levels of service. According to Statistics Canada figures for 1988/89, the average per capita expenditure for all legal aid services in Canada was $11.44. By comparison the reported expenditure for P.E.I. was $2.57 per capita.

Eligibility:

Eligibility is restricted to persons who are on social assistance at the time of application or who might be considered eligible for such assistance if required to pay the estimated cost of representation by private counsel. Income scales are used in assessing financial eligibility but in practice they are of limited use because the cost of the legal services may fluctuate sharply depending on the nature of the case. In other words, an applicant at the bottom of the income scale might be able to afford the costs of a very simple case, whereas a case of major complexity might exhaust the financial resources of an applicant whose income is at or above average.

Priority for assistance is given to applicants whose legal problems directly involve dependent children.

Legal aid may be refused in any situation where a reasonable individual of modest means faced with a similar problem would choose not to pay from his or her own pocket to obtain the assistance requested.

Our experience to date has shown that most applicants are financially eligible. Where service has been refused, it has usually been due to the shortage of legal staff to pursue the matter.

Coverage:

Coverage is limited to matters within the jurisdiction of the Family Division of the Supreme Court. Generally, this involves the *Divorce Act*, *Family Law Reform Act*, *Custody, Jurisdiction and Enforcement Act* and the *Family and Child Services Act*. Priority is given to applicants under the Family and *Child Services Act* because they face the ultimate risk that their children may be apprehended and placed in permanent custody.

Involvement of Private Counsel:

Legal aid staff lawyers may represent only one party in any dispute. The same restriction applies to law firms in private practice. In some cases, more than one party seeks legal aid. Depending on the circumstances of the case, the additional applicants may be referred to private counsel on a tariff basis. About 44 percent of the program budget is spent on private counsel services. This part of the budget is very difficult to administer because it involves priorizing cases and limiting the number of hours of service that may be provided by private counsel.

Legal Aid in Other Provinces:

The Province participates in an informal interprovincial legal aid agreement. Under the reciprocal agreement, residents of Prince Edward Island may obtain legal aid in any province of Canada. A condition of inter-provincial coverage is that similar service must be available to non-residents in this province.

Number of New Files Opened:

There were 355 new files opened in 1989/90. This number includes only those cases where legal action was commenced through correspondence, negotiation, or court action. The figure does not include telephone and office consultations where summary advice was given without any of the foregoing action.

Family cases tend to be difficult to settle quickly. Most cases take several months to resolve and in some, work proceeds beyond the year in which the file was opened. By nature, the practice of family law differs from other areas of litigation in that the circumstances of the litigants may continue to change and bring about a need for additional assistance. Consequently, the number of active files is always greater than the number of new files opened.

Telephone Inquiries:

The provision of summary legal advice by phone is an important aspect of the program. The majority of applicants call in the initial stages of family break-ups. Early advice and appropriate referrals to other agencies at that stage may provide reassurance and enable callers to resolve their difficulties before they lead to costly litigation.

Program Statistics: Family Legal Aid

		88/89	89/90
1.	NUMBER OF PERSONS FOR WHOM NEW FILES WERE OPENED:	304	355
2.	TYPE OF APPLICATION:		
	Matrimonial: Includes Divorce, Separation, Custody and other family matters	91%	89%
	Child Protection Cases: Family & Child Services Act	9%	11%
3.	REGIONAL DISTRIBUTION OF SERVICE:	No. of Files	
	Charlottetown	143	178
	Summerside	161	177
4.	RATIO OF MALE TO FEMALE CLIENTS:		
	Male	22%	25%
	Female	78%	75%
5.	NUMBER OF CASES WHERE PRIVATE COUNSEL ACTED THROUGH LEGAL AID:	30	48
6.	FEES AND DISBURSEMENTS PAID TO PRIVATE COUNSEL:	$26,789.46	$59,740.15
7.	NUMBER OF INTER-PROVINCIAL REQUESTS:		
	To other provinces	7	6
	From other provinces	4	3
8.	**TOTAL EXPENDITURES:**	**$85,506.00**	**$137,632.40**

LEGAL SERVICES DIVISION

Legal services are provided to the Premier's Office, Executive Council, Government departments and some Crown corporations and agencies by lawyers employed in the Legal Services Division.

The Division has assigned solicitors to serve specific departments of Government in order to provide a degree of specialization which would not otherwise be possible.

The Legal Services Division represented Government in 1990 on litigation before the various divisions of the Supreme Court of Prince Edward Island. It also represented Government before various administrative tribunals and provided legal advice to others. Legal opinions and advice were provided on a full range of other matters to Departments of Government, commissions and agencies.

Personnel

Director of Legal Services: Charles P. Thompson
Departmental Solicitors: Judith M. Haldemann
Roger B. Langille
Valerie A. Moore
Shauna Sullivan Curley
Les J. Zielinski
Administrative Assistant: Deborah L. Gillespie
Legal Secretary: Mary-Lynn Smith

LEGISLATIVE COUNSEL

There was a fairly heavy legislative agenda for the 2nd Session of the 58th General Assembly.

There were 71 Government bills, 20 Opposition bills and 6 Private bills introduced in the Legislative Assembly.

The staff of the office of the Legislative Counsel was reduced in December 1989 when Mrs. Marina Bears retired after many years of faithful service.

The major activity in 1990, apart from the legislative program, was the preparation of a consolidation of the regulations to reflect changes made in the course of the revision of the statutes.

This project has been delayed because of other priorities at the office of the Queen's Printer, but it is expected that the new consolidation will be available to subscribers early in 1991.

RESIDENTIAL RENTAL PROPERTY OFFICE

The *Rental of Residential Property Act* proclaimed January 1989 repealed the *Landlord and Tenant Act*, Part V and the *Rent Review Act*. This new Act consolidated and updated legislation relating to rental of residential premises including several new and important provisions such as:

1. The establishment of statutory conditions applying as between the parties to a rental agreement governing residential premises which includes mobile homes and sites.
2. A standard form of written rental agreement.
3. Procedures for the holding and return of security deposits.
4. Improved security of tenure provisions by specifically setting out the grounds for which the rental agreement may be terminated by the lessor and appeal procedures by the lessee.
5. The introduction of an administrative tribunal through the Director of Residential Rental Property with authority to investigate, hold hearings, make decision and issue orders to effect compliance with the Act. Appeal from decisions of the Director is to County Residential Rental Property Boards empowered to make such decision or order as the Director is empowered to make. 45

In July of 1990, Lieutenant Governor in Council designated the Minister of Justice to have responsibility for administration of the Act transferring this from the Minister Responsible for the P.E.I. Housing Corporation.

The staff and budget have been transferred to the Department of Justice from the P.E.I. Housing Corporation with office facilities continuing to be located at 3 Queen Street, Charlottetown. Service to the public is available at Summerside East Prince Regional Services Centre Wednesday of each week and the West Prince Regional Services Centre on the first Thursday of each month.

Activities

The Office has responded to requests for information as follows:

	1990		1989	
Number of inquires	5,199		3,601	
Lessor	2,046	39.4%	1,288	35.8%
Lessee	2,451	47.1%	1,754	48.7%
Other	702	13.5%	559	15.5%

Statutory Condition Enforcement

The statutory conditions are those obligations of either the lessor (landlord) or the lessee (tenant) as set out in the Act and the standard form of rental agreement. The parties are encouraged to resolve disputes after their rights are explained and when this is unsuccessful, an application is received, processed by investigation and/or hearing.

	1990	1989
Orders Issued Lessor	31	10
Orders Issued Lessee	37	22
Applications Cancelled	23	7
Shared Decision	1	1
Applications Outstanding	20	5

Security Deposits

The Act sets out the handling and processing requirements of security deposits taken as a condition of the rental agreement. The lessor is required to deposit the funds at a financial institution in a designated trust account and interest accrues to the lessee while the deposit is held. Within 10 days of delivering up possession of the premises, the deposit is to be returned with the interest. The lessor may retain all or a portion of the deposit to cover damages or unpaid rent and if retained, the lessee must be advised of the nature and amount of charges made. If agreement is not reached between the parties the lessee requests determination by the Director at which time the deposited funds are forwarded and held by the Director.

Investigation is carried out and appropriate decision made. Funds are disbursed accordingly following the appropriate appeal period.

	1990	1989
Applications Received	37	20
Value of Security Deposits	$7,156.15	$2,938.73
Awarded to Lessors	3,353.09	1,325.95
Awarded to Lessees	3,371.06	1,612.78
Remaining to be Disbursed	432.00	

Termination of Rental Agreements

The Act provides limited security of tenure for the lessee whereby the lessee must be given in writing the proper notice and the reason for termination of the rental agreement. The lessee may by application to the Director request the notice to be set aside. The lessor may, following the issuance of a notice, apply to the Director for an order terminating the agreement on a date earlier than that specified in the notice served to the lessee.

	1990	1989
Applications Received	38	36
Early Termination	16	21
To Set Aside Notice of Termination	15	15
Habitual/Persistent Late Payment of Rent	7	
Decisions in favour of Lessor	17	15
Decisions in favour of Lessee	11	13
Applications Cancelled	8	6
Applications Outstanding	2	2

Rent Increases

The guidelines applicable to rent increase remain relatively the same as contained in the repealed *Rent Review Act*. The allowable percentage rent increase for 1989 and 1990 was 4%. A rent increase exceeding the amount requires approval by the Director before being charged and collected. The rent being charged remains unchanged until approval is obtained. Rent is permitted to increase only on the 12 month anniversary of the last rent increase or twelve months from the date new units are rented. The lessor must serve a written notice of rent increase and the notice period be not less than 90 days. The lessee may request of the lessor that a rent increase at or below the allowable percentage be approved.

The results of applications processed are:

	1990	1989
Applications approved as applied for	18	10
Applications not approved as applied for	8	16
The number of residential units affected	151	97

Appeals to Residential Rental Property Boards

Decisions made by the Director may be appealed to the Residential Rental Property Board established for each county of the Province. The appeals filed by category are as follows:

	Appeals	
	1990	1989
Statutory Conditions	1	1
Security Deposits	3	1
Termination	2	2
Rent Increase	3	

Residential Property Boards

Queens County

The Residential Rental Property Board for Queens County was proclaimed under the *Rental of Residential Property Act* on January 18, 1989.

The Board, while independent from the Director of Residential Rental Property, has the power to hear appeals of the decisions by the Director and to issue their decisions. Any party to a decision or order of the Director has the right to appeal to the Board.

Appointments to the Queens County Board are follows:

Name	Position	Term
Mary Lynn Jenkins	Chairman	August 31/89-January 18/92
Frances Jones	Vice-Chairman	January 18/89-January 18/92
Joan Cudmore	Member	January 18/89-January 18/91
Emmett Doyle	Member	January 18/89-January 18/91
Sterling Lane	Member	January 25/90-January 15/93

From January 1, 1990 to December 31, 1990, eight (8) appeal applications were received by the Residential Rental Property Board for Queens County.

The various applications requested the Board's decision in the following areas.

Termination of Rental Agreement - Two (2) appeals, requesting that termination notices be set aside were launched by lessees with one of the requests being abandoned. The other appeal resulted in the termination notice being set aside and the Director's decision upheld.

Security Deposits - Three (3) appeals, requesting the return of security deposits were made by lessees with two (2) decisions resulting in the return of the deposit to the lessee. One decision resulted in the deposit being retained by the lessor. Two decisions of the Director were overturned and one decision was upheld.

Increase in Rent - Two (2) appeals were requested by the lessees and one (1) appeal to a decision was requested by the lessor. The Director's decision to allow a rental increase in one case was upheld. In the other two appeals, the Director's decision was overturned. In one instance the Board allowed a rental increase above that which was ordered by the Director and in the other instance the Board reduced the amount of the rental increase approved by the Director. One hearing was adjourned and held at a later date.

The following is a breakdown of the total costs of operating the Residential Rental Property Board for Queens County from January 1, 1990 to December 31, 1991.

Name	Position	Per Diem	Travel	Total
Mary Lynn Jenkins	Chairman	$1,200.00	$ 23.70	$1,223.70
David Sanderson	Chairman	200.00	3.95	203.95
Emmett Doyle	Member	735.00	39.05	774.05
Sterling Lane	Member	735.00	92.40	827.40
Joan Cudmore	Member	735.00	31.60	766.60
Frances Jones	Member	755.00	67.54	822.54
TOTALS		**$4,360.00**	**$258.24**	**$4,618.24**

Prince County

The Residential Rental Property Board for Prince County was proclaimed under the *Rental of Residential Property Act* on January 18, 1989.

The Board, while independent from the Director of Residential Rental Property, has the power to hear appeals of the decisions by the Director and to issue their decisions. Any party to a decision or order of the Director has the right to appeal to the Board.

Appointments were made to the Prince County Board as follows:

Name	Position	Term
Stephen McKnight	Chairman	January 18/89-January 18/92
Isabel Yuill	Vice-Chairman	January 18/89-January 18/92
Raymond A. Gallant	Member	January 18/89-January 18/91
Wendell C. MacKay	Member	January 18/89-January 18/91
Audrey Inman	Member	January 18/89-January 18/90

Audrey Inman, whose term expired on January 18, 1990 was reappointed from January 25, 1990 to January 25, 1993. Isabel Yuill resigned her position on the Board on June 6, 1990. Ms. Audrey Inman was designated as Vice-Chairman to replace Ms. Yuill.

From January 1, 1990 to December 31, 1990, one (1) appeal was heard by the Residential Rental Property Board for Prince County. It was as follows:

Date:	September 15, 1990
Parties:	Appellant Lessor vs. Respondent Lessee
Reason:	Director ordered a refund of rental money paid
Result:	Director's decision was upheld.

The following is a breakdown of the total costs of operating the Residential Rental Property Board for Prince County from January 1, 1990 to December 31, 1990.

Name	Position	Per Diem	Travel	Total
Stephen McKnight	Chairman	$200.00	$42.65	$242.65
Audrey Inman	Vice-Chairman	95.00	34.20	129.20
Raymond Gallant	Member	95.00	33.68	128.68
Wendell C. MacKay	Member	95.00	28.40	123.40
Totals		$485.00	$138.93	$623.93

Kings County

The Residential Rental Property Board for Kings County was proclaimed under the *Rental of Residential Property Act* on January 18, 1989.

The Board, while independent from the Director of Residential Rental Property, has the power to hear appeals of the decisions by the Director and to issue their decisions. Any party to a decision or order of the Director has the right to appeal to the Board.

Appointments were made to the Kings County Board as follows:

Name	Position	Term
David Sanderson	Chairman	January 18/89-January 18/92
Sybil Dewar	Vice-Chairman	January 18/89-January 18/92
James Hughes	Member	January 18/89-January 18/91
Allan Raymond Grant	Member	January 18/89-January 18/90

Allan Raymond Grant, whose term expired on January 18, 1990 was re-appointed from January 25, 1990 to January 25, 1993. No requests for an appeal hearing were received by the Kings County Board in the 1990 calendar year and no costs were incurred in operating this Board.

Personnel:

Director: John Comeau
Rental Property Officer: Boyde White
Secretary: Kay Driscoll